

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26844 OF 2005

DATED: 16th DECEMBER, 2005

Between

Damerla Mohan Rao S/o Devaiah and another

... Petitioners

and

The District Collector, Khammam District, at Khammam,
and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26844 OF 2005

ORDER:

Feeling aggrieved by the order dated 02.07.2005 in C.M.A.No.29 of 2005 passed by the third respondent herein, confirming the order in L.T.R.Case No.270/2004/JLP, dated 15.01.2005, passed by the second respondent, the petitioners filed the present writ petition seeking a writ of Mandamus declaring the impugned order as illegal, arbitrary and unconstitutional.

The petitioners are residents of Padamati Narsapur village in Julurupadu Mandal of Khammam District, which is a notified tribal area. The second petitioner is the wife of first petitioner. It is alleged that they belong to scheduled caste community. They are, along with six others, allegedly owners of land admeasuring Acs.13.17 guntas of Padamati Narsapur village and the names of the four persons have been shown in the revenue records. The petitioners allege that in 2002, they purchased the shares of four co-owners to an extent of Ac.7.17 guntas under different documents for a valuable sale consideration and since then they are enjoying the property. They state that two of the vendors clandestinely got their names re-entered in the revenue records in collusion with the fourth respondent who is a person belonging to scheduled tribe community. A document executed by the fourth respondent for a sale consideration of Rs.70,000/- in favour of four vendors of the petitioners was brought into existence. Based on such documents, it is alleged the fourth respondent filed L.T.R.Case No.270 of 2004 before the second respondent under A.P.Scheduled Areas Land Transfer Regulation, 1969 (the Regulation, for brevity) seeking eviction of the petitioners and other four co-owners and for restoration of the land in Survey Nos.26/A, 26/AA, 26/E, 26/EE, 26/U and 26/RU admeasuring Ac.13.17 guntas to the fourth respondent.

The second respondent by order dated 15.01.2005 concluded that the purchase of the lands by those four persons, namely, Damerla Bakkamma, Damerla Rahelu, Thagaram Bhaskara Rao and Pothuraju Esu from fourth respondent is void and directed those persons to be evicted from the land duly restoring the land to the fourth respondent. The petitioners herein were shown as respondents 1 and 2 before the second respondent. Aggrieved by the order of the second respondent, the four purchasers from the fourth respondent filed C.M.A.No.29 of 2005 under Section 3(3)(a)ii) of the Regulation. The first respondent by impugned order, dated 02.07.2005, dismissed the appeal directing the Mandal Revenue Officer, Julurupadu to eject the person in possession of the scheduled lands and assign it to eligible tribals. The parties were also informed that the appeal would lie to the Government within sixty days from the date of the order.

The learned counsel for the petitioners strenuously contends that the fourth respondent is not a tribal and therefore the Regulation has no application to the facts of the case. Secondly, he would urge that there is a title dispute between the petitioners and other co-owners by reason of which the authorities under the Regulation are not competent to decide the matter. The learned counsel lastly submits that the petitioners are also taking necessary steps to approach the Government by filing a revision against the orders of the first respondent and therefore if the impugned orders are implemented, the petitioners would suffer loss of injury.

The A.P.Scheduled Areas Land Transfer Regulation prohibits the transfer of immovable property by a member of scheduled tribe to a person belonging to scheduled tribe or a non-tribal. In this case, admittedly the co-owners of the petitioners, who purchased the property from the fourth respondent are non-tribals and that would be sufficient to attract the provisions of the Regulation. Secondly, the *inter se* property dispute among joint owners of immovable property situated in tribal

area does not in any manner bar additional agent or agent to the Government from proceeding in the matter. These submissions are misconceived. Further, the petitioners who are respondents before respondents 1 and 2 in L.T.R. Case No. 270 of 2004 did not raise these grounds. This Court, however, hastens to add that as the petitioners are already taking necessary steps to file a revision petition before the Government under Section 6 of the Regulation, they are given liberty to raise all the grounds before the revisional authority. In this writ petition, no relief can be granted.

The writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

16.12.2005.

pln